

ESTTA Tracking number: **ESTTA507752**Filing date: **11/28/2012**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

| | |
|---------------------------------------|---|
| Name | Giorgifred Company |
| Granted to Date of previous extension | 02/13/2013 |
| Address | Nemours Bldg, 1007 Orange Str. Ste 1414 Wilmington, DE 19801 UNITED STATES |
| Correspondence information | Bassam N. Ibrahim Buchanan Ingersoll & Rooney PC 1737 King Street Suite 500 Alexandria, VA 22314 UNITED STATES bassam.ibrahim@bipc.com, holly.lance@bipc.com, michelle.jackson@bipc.com, connie.fuentes@bipc.com, lloyd.smith@bipc.com Phone:(703) 836-6620 |

Applicant Information

| | | | |
|------------------------|---|------------------------|------------|
| Application No | 85500520 | Publication date | 10/16/2012 |
| Opposition Filing Date | 11/28/2012 | Opposition Period Ends | 02/13/2013 |
| Applicant | Fresh and Clean Greens Inc. 5729 Lebanon Rd 144-401 Frisco, TX 75034 UNITED STATES | | |

Goods/Services Affected by Opposition

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|---|
| Class 029. First Use: 2011/10/07 First Use In Commerce: 2011/10/07 All goods and services in the class are opposed, namely: Fruit salads and vegetable salads; Pre-cut vegetable salad |
| Class 031. First Use: 2011/10/07 First Use In Commerce: 2011/10/07 All goods and services in the class are opposed, namely: Fresh fruit and vegetables |

Grounds for Opposition

| | |
|--------------------------------------|----------------------------|
| Priority and likelihood of confusion | Trademark Act section 2(d) |
|--------------------------------------|----------------------------|

Mark Cited by Opposer as Basis for Opposition

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|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 2795863 | Application Date | 06/17/2002 |
| Registration Date | 12/16/2003 | Foreign Priority Date | NONE |

| | |
|---------------------|---|
| Word Mark | FRESH N' CLEAN |
| Design Mark | FRESH N' CLEAN |
| Description of Mark | NONE |
| Goods/Services | Class 031. First use: First Use: 2003/07/00 First Use In Commerce: 2003/07/00 mushrooms |

| | |
|-------------|---|
| Attachments | 76422175#TMSN.gif (1 page)(bytes) Notice of Opposition - U.S. Ser. No. 85500520_pdf.pdf (5 pages)(137742 bytes) |
|-------------|---|

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

| | |
|-----------|------------------------|
| Signature | /s/ / Holly B. Lance / |
| Name | Holly B. Lance |
| Date | 11/28/2012 |

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

RE: U.S. Trademark Application Serial No. 85/500,520
Published in the *Official Gazette* on October 16, 2012

GIORGIFRED COMPANY

Opposer,

v.

FRESH AND CLEAN GREENS INC.,

Applicant.

Attorney Docket No. 1030807-000350

Opposition No. _____



NOTICE OF OPPOSITION

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

Commissioner:

Giorgifred Company (“Giorgifred”) believes that it will be damaged by the registration of the mark identified in U.S. Application Serial No. 85/500,520 – FRESH & CLEAN GREENS & Design, pictured above (hereinafter, “Applicant’s Mark” or “Applicant’s FRESH & CLEAN GREENS & Design Mark”), and hereby opposes registration in both classes, namely:

- “Fruit salads and vegetable salads; pre-cut vegetable salad,” in International Class 29; and
- “Fresh fruit and vegetables,” in International Class 31 (collectively, “Applicant’s Goods”).

As grounds for this Opposition, Giorgifred states as follows:

(1) Opposer Giorgifred is a Delaware corporation, located and doing business at Nemours Building, Suite 1414, 1007 Orange Street, Wilmington, Delaware 19801.

(2) Applicant Fresh and Cleans Greens Inc. is an Illinois corporation, located and doing business at 5729 Lebanon Road, #144-401, Frisco, Texas 75034-7260.

(3) Since at least as early as July 2003, several years prior to the December 21, 2011 filing date and the October 7, 2011 first-use date claimed in U.S. Application Serial No. 85/500,520, Giorgifred has been using the mark FRESH N' CLEAN (hereinafter, the "FRESH N' CLEAN Mark").

(4) Giorgifred owns all right, title and interest to incontestable U.S. Reg. No. 2,795,863 – FRESH N' CLEAN in connection with "mushrooms" (hereinafter, "Giorgifred's Goods").

(5) As a result of Giorgifred's long-term, established, and exclusive use of the FRESH N' CLEAN Mark in connection with Giorgifred's Goods, the FRESH N' CLEAN Mark has become famous and well known as designating Giorgifred's Goods, and achieved this status prior to the filing date of U.S. Application Serial No. 85/500,520 and any use of Applicant's Mark.

(6) Giorgifred enjoys substantial goodwill throughout the United States through its use of the FRESH N' CLEAN Mark. Giorgifred's goodwill and reputation will be harmed by the continued use and registration of Applicant's Mark for Applicant's Goods.

(7) Applicant's Mark is similar to the FRESH N' CLEAN Mark in appearance, sound, and commercial impression.

(8) Applicant's FRESH & CLEAN GREENS & Design Mark so resembles Giorgifred's previously used and registered FRESH N' CLEAN Mark for highly related and/or materially identical goods to cause a likelihood of confusion, mistake or to deceive persons by creating the erroneous impression that Applicant's Goods originate with or are associated with Giorgifred, or that the Applicant's Goods are authorized, endorsed or sponsored by Giorgifred.

(9) Applicant's filing of U.S. Application Serial No. 85/500,520 was without license, authorization or permission from Giorgifred.

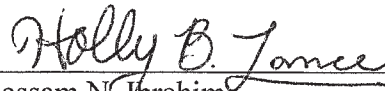
(10) The granting of a trademark registration for Applicant's FRESH & CLEAN GREENS & Design Mark to Applicant would cause a likelihood of confusion and dilution contrary to 15 U.S.C. § 1052(d) and (f) and violate and diminish Giorgifred's prior and superior rights in its FRESH N' CLEAN Mark.

(11) Giorgifred will be damaged if U.S. Application Serial No. 85/500,520 is allowed to register because Applicant will obtain statutory rights in Applicant's Mark in violation and derogation of the established prior rights of Giorgifred in its FRESH N' CLEAN Mark.

WHEREFORE, Giorgifred prays that its Opposition be sustained, that U.S. Application Serial No. 85/500,520 be rejected and the registration of Applicant's FRESH & CLEAN GREENS & Design Mark be refused, and for such other relief as may be deemed just and proper.

Respectfully submitted,

GIORGIFRED COMPANY

A handwritten signature in cursive script, reading "Holly B. Lance". The signature is written in dark ink and is positioned above a horizontal line.

Bassam N. Ibrahim

S. Lloyd Smith

Holly B. Lance

BUCHANAN INGERSOLL & ROONEY PC

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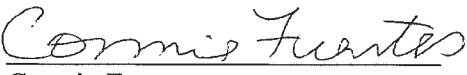
Attorneys for Opposer

Date: November 28, 2012

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing NOTICE OF
OPPOSITION was served this 28th day of November, 2012 by first-class mail, postage prepaid,
on:

Fresh & Clean Greens Inc.
5729 Lebanon Road, #144-401
Frisco, Texas 75034-7260


Connie Fuentes